

ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

In the Matter of the Removal and Prohibition of:

No. 08F-BD066-BNK

CINDY O. PETERSON
37625 North 20th Street
Phoenix, AZ 85086

Respondent.

**NOTICE OF HEARING AND INTENT
TO REMOVE AND PROHIBIT FROM
FURTHER PARTICIPATION IN ANY
MANNER IN THE CONDUCT OF THE
AFFAIRS OF A FINANCIAL
INSTITUTION OR ENTERPRISE AND
COMPLAINT**

PLEASE TAKE NOTICE that, under Arizona Revised Statutes ("A.R.S.") §§ 6-138, 6-161, and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative Hearings, an independent agency, and is scheduled for July 31, 2008, at 9:00 a.m., at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

The purpose of the Hearing is to determine whether grounds exist to remove or prohibit Respondent from further participation in any manner in the conduct of the affairs of a financial institution or enterprise pursuant to A.R.S. §§ 6-161(A), (B), and (C), and to prohibit Respondent, after a removal order has become final, from further participation in any manner as a director, officer, employee, agent or other person in the conduct of the affairs of any financial institution or enterprise pursuant to A.R.S. § 6-161(E).

Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to preside over the Hearing as the Administrative Law Judge, to make written recommendations to the Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office of Administrative Hearings has designated Lewis D. Kowal, at the address and phone number listed above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the

1 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
2 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
3 Judge is specifically prohibited from entering.

4 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
5 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
6 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
7 Administrative Hearings.

8 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
9 counsel, or to proceed without counsel when submitting evidence, to have a reasonable opportunity
10 to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses
11 in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to
12 compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B),
13 any person may appear on his or her own behalf or by counsel.

14 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
15 made by a court reporter or by electronic means. Any party that requests a transcript of the
16 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

17 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
18 Attorney General Erin O. Gallagher, (602) 542-7757, 1275 West Washington, Phoenix, Arizona
19 85007.

20 **NOTICE OF APPLICABLE RULES**

21 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
22 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
23 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
24 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
25 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through R2-
26

1 19-122. A copy of the procedures to be followed is enclosed.

2 Pursuant to A.A.C. R20-4-1209, Respondent shall file a written answer within **twenty (20)**
3 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondent's
4 position or defense and shall specifically admit or deny each of the assertions contained in this
5 Notice of Hearing. If the answering Respondent is without or is unable to reasonably obtain
6 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondent shall
7 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.
8 When Respondent intends to deny only a part or a qualification of an assertion, or to qualify an
9 assertion, Respondent shall expressly admit so much of it as is true and shall deny the remainder.
10 Any defense not raised in the answer is deemed waived.

11 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondent will be**
12 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
13 true and admitted and the Superintendent may take whatever action is appropriate pursuant to A.R.S.
14 §§ 6-123 and 6-131.

15 Respondent's answer shall be mailed or delivered to the Arizona Department of Financial
16 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
17 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
18 Arizona 85007 and to Assistant Attorney General Erin O. Gallagher, Consumer Protection &
19 Advocacy Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

20 **Persons with disabilities may request reasonable accommodations such as interpreters,**
21 **alternative formats, or assistance with physical accessibility.** Requests for special
22 accommodations must be made as early as possible to allow time to arrange the accommodations. If
23 accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

24 **FACTS**

25 1. Respondent Cindy O. Peterson ("Ms. Peterson") was employed as an escrow officer
26 by the Lenders Advantage division of First American Title Insurance Company ("First American")

1 from approximately March 13, 1999 to November 3, 2005. Lenders Advantage (First American) is
2 licensed by the Department as an escrow agent, license number EA-0014663.

3 2. First American conducted an internal audit, which revealed that Ms. Peterson made
4 unauthorized disbursements from escrow files to several members of her family, including her
5 husband, son, father-in-law, and brother-in-law. Ms. Peterson wrongfully diverted a total of twenty
6 thousand, one hundred twenty four dollars and fifty three cents (\$20,124.53) from escrow files while
7 employed at First American, specifically:

8 a. Ms. Peterson wrongfully disbursed unauthorized funds in the amount of sixteen
9 thousand, four hundred ninety nine dollars and fifty three cents (\$16,499.53) to her husband, for
10 alleged fees such as: note/dot lenders instructions, document fees, document draft, doc prep fee,
11 documents, lending docs, loan docs fee, prep fee, service fee, escrow fees, deed prep courtesy,
12 cancellation fee/doc prep, doc prep courtesy, notary fee, and "adl escrow fee," as well as for
13 advanced cash to seller and sale proceeds;

14 b. Ms. Peterson wrongfully disbursed unauthorized funds in the amount of three
15 thousand, fifty dollars (\$3,050.00) to her son, for alleged document fees and doc prep fees;

16 c. Ms. Peterson wrongfully disbursed unauthorized funds in the amount of two hundred
17 fifty dollars (\$250.00) to her father-in-law, for alleged notary fees; and

18 d. Ms. Peterson wrongfully disbursed unauthorized funds in the amount of three
19 hundred twenty five dollars (\$325.00) to her brother-in-law, for an alleged notary fee and an
20 alleged escrow fee.

21 3. Ms. Peterson was employed as an escrow officer and branch manager by Premier
22 Title Group ("Premier"), a division of Title Security Agency of Arizona ("TSA"), from
23 approximately November 1, 2005 to July 18, 2007, at the Arrowhead branch in Glendale, Arizona.
24 TSA is licensed by the Department as an escrow agent, license number EA-0001723.

25 4. Magnus Title Agency, another division of TSA, conducted an internal audit of the
26 Premier Arrowhead branch after discovering that another former employee had committed a

1 defalcation. The internal audit revealed that Ms. Peterson made unauthorized disbursements from
2 escrow files to several members of her family, including her husband, son, and father-in-law, and
3 companies owned by family members, among other payees, resulting in a loss to TSA totaling two
4 thousand, two hundred seventy eight dollars (\$2,278.00), and file discrepancies totaling fifty
5 thousand, four hundred eighty five dollars and eighty one cents (\$50,485.81), specifically:

6 a. Ms. Peterson wrongfully disbursed unauthorized funds to her father-in-law for notary
7 services, among other things, resulting in discrepancies in the amount of two thousand, three
8 hundred eighty dollars (\$2,380.00). Ms. Peterson's wrongful disbursements to her father-in-law
9 resulted in a loss to TSA totaling six hundred forty dollars (\$640.00);

10 b. Ms. Peterson wrongfully disbursed unauthorized funds to HFH Escrow Support, a
11 company owned by her father-in-law, for notary services, among other things, resulting in
12 discrepancies in the amount of nine thousand, two hundred seven dollars and forty seven cents
13 (\$9,207.47). Ms. Peterson's wrongful disbursements to HFH Escrow Support resulted in a loss
14 to TSA totaling one thousand, six hundred thirty eight dollars (\$1,638.00);

15 c. Ms. Peterson wrongfully disbursed unauthorized funds to her husband for document
16 preparation fees, as well as an unauthorized real estate commission, among other things,
17 resulting in discrepancies in the amount of six thousand, thirty dollars (\$6,030.00);

18 d. Ms. Peterson wrongfully disbursed unauthorized funds to Hilditch Properties,
19 resulting in a discrepancy in the amount of eight thousand, five hundred thirty three dollars and
20 twenty four cents (\$8,533.24). Ms. Peterson wrongfully disbursed unauthorized funds to Jazz
21 Properties, resulting in a discrepancy in the amount of seven thousand, three hundred eight
22 dollars and seven cents (\$7,308.07). Ms. Peterson and her husband have ownership stakes in
23 both Hilditch Properties and Jazz Properties;

24 e. Ms. Peterson wrongfully disbursed unauthorized funds to her son for document
25 preparation fees, among other thing, resulting in discrepancies in the amount of one thousand,
26 five hundred sixteen dollars and eighty cents (\$1,516.80); and

1 f. Ms. Peterson also wrongfully disbursed unauthorized funds to two other entities,
2 resulting in discrepancies of fifteen thousand, five hundred ten dollars and twenty three cents
3 (\$15,510.23).

4 5. Ms. Peterson acted as a purchasing party to Escrow Transaction Number 01005458-
5 781 and failed to pay the balance owing on a mortgage loan to Option One Mortgage. Between June
6 22, 2007 and August 28, 2007, Ms. Peterson made payments from her own funds toward the
7 repayment of this debt. TSA incurred a loss of eleven thousand, eight hundred two dollars and nine
8 cents (\$11,802.09) that Ms. Peterson failed to pay off.

9 6. TSA incurred a total loss of fourteen thousand, eighty dollars and nine cents
10 (\$14,080.09) from Ms. Peterson's wrongful and unauthorized disbursements to her family members,
11 as well as Ms. Peterson's failure to pay Option One Mortgage.

12 LAW

13 1. Pursuant to Title 6, Chapter 7, of the Arizona Revised Statutes, the Superintendent
14 has the authority and duty to regulate all persons engaged in the escrow agent business and with the
15 enforcement of statutes, rules, and regulations relating to escrow agents.

16 2. By the conduct set forth above in the Complaint, Ms. Peterson has violated statutes
17 governing escrow agents as follows:

- 18 a. A.R.S. § 6-834(A) by failing to deposit and maintain all monies deposited in escrow
19 to be delivered on the close of the escrow or on any other contingency in a bank,
20 savings bank or savings and loan association doing business in this state and failing to
21 keep all escrow monies separate, distinct and apart from monies belonging to the
22 escrow agent; and
23 b. A.R.S. § 6-841.01(A) by breaching a fiduciary duty as a trustee to the owner of all
24 monies received or collected and held in escrow and by knowingly and negligently
25 commingling trust monies with the escrow agent's own monies or with monies held
26 in any other capacity.

1 3. Ms. Peterson's conduct, as set forth above, constitutes acts, omissions, and practices
2 which demonstrate personal dishonesty and unfitness to continue in office or to participate in the
3 conduct of the affairs of any financial institution or enterprise and is grounds for removal and the
4 prohibition of Ms. Peterson within the meaning of A.R.S. § 6-161(A)(1).

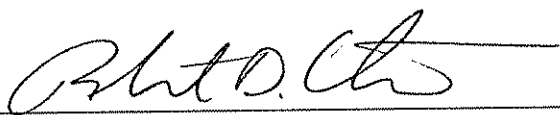
5 4. Ms. Peterson's violations of A.R.S. §§ 6-834(A) and 6-841.01(A) constitute grounds
6 for the removal and the prohibition of Ms. Peterson from participating in any manner in the conduct
7 of the affairs of any financial institution or enterprise, pursuant to A.R.S. § 6-161(A)(6).

8 5. The violations, set forth above, constitute grounds for the Superintendent to order the
9 removal and the prohibition of Ms. Peterson from further participation in any manner as a director,
10 officer, employee, agent or other person in the conduct of the affairs of any financial institution or
11 enterprise, pursuant to A.R.S. § 6-161.

12 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
13 above-described violations, the Superintendent may remove and prohibit Ms. Peterson from further
14 participation in any manner in the conduct of the affairs of any financial institution or enterprise
15 pursuant to A.R.S. § 6-161(E) and may order any other remedy necessary or proper for the
16 enforcement of the statutes and rules regulating escrow agents in Arizona pursuant to A.R.S.
17 §§ 6-123, 6-131 and 6-161.

18 DATED this 13 day of June, 2008.

19 Felecia A. Rotellini
20 Superintendent of Financial Institutions

21 By 
22 Robert D. Charlton
23 Assistant Superintendent of Financial Institutions

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25 ...

26 ...

1 ORIGINAL of the foregoing filed this 13th
2 day of June, 2008, in the office of:

3 Felecia A. Rotellini
4 Superintendent of Financial Institutions
5 Arizona Department of Financial Institutions
6 ATTN: Susan Longo
7 2910 N. 44th Street, Suite 310
8 Phoenix, AZ 85018

9 COPY mailed/delivered same date to:

10 Lewis D. Kowal, Administrative Law Judge
11 Office of Administrative Hearings
12 1400 West Washington, Suite 101
13 Phoenix, AZ 85007

14 Erin O. Gallagher, Assistant Attorney General
15 Office of the Attorney General
16 1275 West Washington
17 Phoenix, AZ 85007

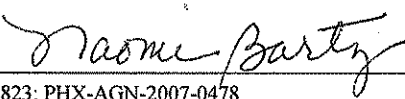
18 Robert D. Charlton, Assistant Superintendent
19 Henry Soza, Investigator
20 Arizona Department of Financial Institutions
21 2910 N. 44th Street, Suite 310
22 Phoenix, AZ 85018

23 COPY DELIVERED/SERVED SAME DATE by
24 Certified Mail, Return Receipt Requested, to:

25 Cindy O. Peterson
26 37625 N. 20th Street
Phoenix, AZ 85086
Respondent

Cindy O. Peterson
14617 N. 55th Avenue
Glendale, AZ 85306
Respondent

Cindy O. Peterson
23820 N. 39th Avenue
Glendale, AZ 85310
Respondent

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25 _____
26 195823; PHX-AGN-2007-0478